

REMARKS

Reconsideration of this application is respectfully requested. Claims 1-8 are pending in this application. Claim 8 was allowed. Claims 1-4, 6 and 7 stand rejected. Claim 5 was objected to as being dependent upon a rejected base claim, but was indicated to be allowable if rewritten in independent form.

Claim Rejections – 35 U.S.C. §102 and §103

Claims 1 – 2 were rejected under 35 U.S.C. §102(b) as being anticipated by **Caswell et al.** (USP 4,762,990, previously cited). Claims 3 – 4 were rejected under 35 U.S.C. §103(a) as being unpatentable over **Caswell et al.** Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over **Caswell et al.** in view of **Brandt** (USP 5, 438,446 and previously cited). Claim 6 was rejected under 35 U.S.C. §102(e) as being anticipated by EP 0897161 (previously cited). For the reasons set forth in detail below, these rejections are respectfully traversed.

Initially, we note that the Examiner has repeated the same rejections in view of the prior art set forth in the previous Office Action. However, the Examiner's reasoning in support of the rejections is slightly different from the reasoning in the previous Office Action.

Claims 1-2

The **Caswell et al.** reference was discussed in detail in the response to the previous Office Action. The remarks regarding **Caswell et al.** set forth in the Response filed March 8, 2005 are hereby incorporated by reference, and will not be reiterated in detail here.

In the previous Office Action, the Examiner considered the focusing lens 8 shown in Fig. 9 of **Caswell et al.** to correspond to the claimed *deflecting unit having an asymmetrical shape about an optical axis*. In the present Office Action, the Examiner considers the arc shaped reflector 32 shown in Fig. 10 to correspond to the claimed *mirrored deflecting unit*. However, unlike the claimed invention, the arc shaped reflector 32 does not have an asymmetrical shape about an optical axis. More specifically, as stated in column 7, lines 5-9 of **Casewell et al.**, the arc shaped reflector 32 has a *central* opening 33 to permit light from the laser 6 to pass through the opening 33.

It is submitted that because the opening in the arc shaped deflector 32 is central, this indicates that the arc shaped reflector 32 is *symmetrical* with respect to an optical axis of the optics used to create the laser beam from laser 6. Thus, unlike the claimed invention, the written description in **Caswell et al.** clearly does not disclose or suggest that the arc shaped reflector 32 has an asymmetrical about an optical axis.

Furthermore, as indicated in the Manual of Patenting Examining Procedure (MPEP) §2125, it is established that drawings and pictures can anticipate claims if they *clearly* show the structure which is claimed. It is submitted that Fig. 10 does not clearly show that the arc shaped reflector 32 is asymmetrical about an optical axis. In fact, measurement of drawing Fig. 10 showing the two sides of the arc shaped reflector 32 on either side of the central opening 33 reveals that they are both slightly more than 5 mm in length, and does not clearly show an asymmetrical shape about an optical axis.

Further, the MPEP §2125 states “The description of the article pictured can be relied on, in combination with the drawings, for what they would reasonably teach one of ordinary skill in the art.” It is submitted that the combination of the description of the opening 33 being in a central portion of the arc shaped reflector 32 and the drawing showing that the opening 33 is at a center portion of the arc shaped reflector 32 reasonably teaches to one of ordinary skill in the art that the arc shaped reflector 32 has a symmetrical shape about the optical axis of the laser 6.

Therefore, the **Caswell et al.** reference does not disclose or suggest a deflecting unit having an asymmetrical shape about an optical axis, and therefore does not anticipate the invention recited in claims 1 and 2.

Claims 3 and 4

First, because claims 3 and 4 depend from claim 1, claims 3 and 4 are allowable for the same reasons as claim 1 by virtue of their dependency thereon.

Second, the Examiner simply repeats the previous rejection of claims 3 and 4, except the Examiner now cites Fig. 10 of **Caswell et al.** in the rejection (see Office Action, page 4, Item 5). The Examiner does **not** address any of the arguments regarding claims 3 and 4 set forth on pages 9 and 10 of the Amendment filed on March 8, 2005.

It is submitted that the patentability arguments set forth on page 9, line 19 through page 10, line 16 of the previous response are still completely applicable. Therefore, the patentability arguments with respect to claims 3 and 4 set forth on page 9, line 19 to page 10, line 16 of the March 8, 2005 Amendment are hereby incorporated by reference. Moreover, the Examiner is

requested to address these patentability arguments, which arguments were not addressed in the current Office Action.

Further, we refer the Examiner to MPEP §2144.04, which discusses when a change in size or shape of the claimed invention does not patentably distinguish over the prior art. The presently claimed invention clearly distinguishes over the prior art based upon the discussion set forth in the MPEP and the patentability arguments with respect to claims 3 and 4 set forth on page 9, line 19 to page 10, line 16 of the March 8, 2005 Amendment .

Claim 6

The Examiner simply reiterates the exact same rejection of claim 6 set forth in the previous Office Action. Further, the Examiner provides no response to the patentability arguments set forth in the March 8, 2005 Amendment.

Therefore, the patentability arguments set forth in the previous response are hereby incorporated by reference. The Examiner is requested to address these arguments.

Further, it is requested that the Examiner issue a new Office Action that addresses the patentability arguments with respect to claim 6 set forth in March 8, 2005 Amendment. Specifically, 37 CFR §1.104 requires that the Examiner's action must be complete with respect to all matters. Because the Examiner has not addressed any of the arguments with respect to claim 6 set forth in the March 8, 2005 Amendment, the Examiner's action is not complete. Therefore a new, complete action that addresses Applicants' arguments with respect to claim 6 should be issued.

Claim 7

In rejecting claim 7, the Examiner has simply reiterated the previous rejection of claim 7, except the Examiner now cites Fig. 10 of **Caswell et al.** instead of Fig. 9 (see Office Action, page 5, line 3). However, the Examiner has not responded to any of the patentability arguments regarding claim 7 provided in the March 8, 2005 Amendment. The previous arguments regarding claim 7 are still relevant, notwithstanding the application of Fig. 10 of **Caswell et al.**

Therefore, the patentability arguments regarding claim 7 set forth in the March 8, 2005 response are hereby incorporated by reference. The Applicants request that the Examiner address the patentability arguments regarding claim 7 in a new Office Action, and in particular, address the arguments that neither the **Caswell et al.** nor **Brandt** disclose a protective film as recited in claim 7, which is chosen to have a maximum reflectance based on a scanning angle at which a quantity of reflected light from the light retro-reflector is a minimum.

Further, Applicants request that the Examiner issue a new Office Action because the present Office Action is not complete, as is required under 37 CFR §1.104.

CONCLUSION

In view of the foregoing amendments and accompanying remarks, it is submitted that all pending claims are in condition for allowance. A prompt and favorable reconsideration of the rejection and an indication of allowability of all pending claims are earnestly solicited.

Application No. 09/875,084
Group Art Unit: 2677

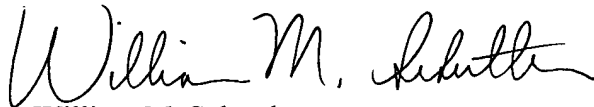
Amendment under 37 C.F.R. §1.116
Attorney Docket No.: 010671

If the Examiner believes that there are issues remaining to be resolved in this application, the Examiner is invited to contact the undersigned attorney at the telephone number indicated below to arrange for an interview to expedite and complete prosecution of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

A handwritten signature in black ink, appearing to read "William M. Schertler". The signature is fluid and cursive, with the first name "William" and last name "Schertler" clearly distinguishable.

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